

### **REMARKS**

This Amendment is responsive to the office action of May 12, 2011, (hereinafter "Office Action").<sup>1</sup> Claims 1-18, 36-38 and 45 were presented for examination. Claims 19-35 and 39-44 were previously canceled. Claims 1-18, 36-38 and 45 are currently rejected. Claims 1, 17, 18, 36 and 45 are independent claims and each is currently amended. No new matter is added. Support for the amendments can be found in the application as filed, for example, at least in the specification, paragraph [0022]. Claims 1-18, 36-38 and 45 are pending.

Claims 1-18, 36-38 and 45 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. (Office Action pg 2) Claims 1-5, 8-9, 11-18 and 36-38 are rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Millar (U.S. 6,831,901, hereinafter "Millar"). (Office Action, pg 3) Claims 6 and 7 are rejected under 35 U.S.C. §103(a) as being un-patentable over Millar in view of Stephens (provisional application #60/371,994 filed April 12, 2002 from which U.S. Patent No. 6,934,077 issued; hereinafter "Stephens"). (Office Action, pg 8) Claim 10 is rejected under 35 U.S.C. §103(a) as being un-patentable over Millar. (Office Action, pg 9) Applicant respectfully traverses these rejections

#### **Independent Claim 45:**

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<sup>1</sup> The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicant may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicant does not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicant deems allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicant that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

Claim 45 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant does not agree with the rationale for this rejection, for the reasons given in the remarks of the last response, identifying support in the application as filed. Therein, support for the amendments made in that response were specified, contrary to the Examiner's position. (Office Action, pg 3) However, since those amendments are not needed for allowability, they have been removed in the instant amendment. Claim 45 has been amended to change "human user" to "user." Therefore, this amendment to this claim overcomes the section 112 rejection. Inasmuch as there is no art rejection of claim 45, claim 45 is allowable. Applicant respectfully requests that the section 112 rejection be withdrawn and that the claim be allowed.

**Independent Claim 1:**

Claim 1 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant does not agree with the rationale for this rejection for the reasons given in the remarks of the last response, identifying support in the application as filed. Therein, support for the amendments made in that response were clearly specified, contrary to the Examiner's position. (Office Action, pg 3) However, since those amendments are not needed for allowability, they have been removed in the instant amendment.

Claim 1 has been amended to change "human user" to "user" and to delete "un-digitized." Further, "human-user device operated and controlled by a human user" has been deleted. Therefore, this amendment to this claim overcomes the section 112

rejection. Applicant respectfully requests that the section 112 rejection of claim 1 be withdrawn.

Claim 1 is also rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Millar. The Office Action equates Millar's BTS (Base Transceiver Station) with Applicant's "user device." (Office Action, pg 3) Although that interpretation of Millar's BTS is overly broad, for purposes of advancing the prosecution, Applicant has defined around that interpretation by the current amendment. Claim 1 now limits its recited user device to a user device selected from the group of user devices consisting of "a telephone, a teletypewriter, a facsimile machine, an information exchange system, an enhanced position location and reporting system, link 16 equipment, a digitized video device, a printer, a modem, a hub, a private branch exchange, a digital switch, a naval tactical data system, a miniature terminal and an airborne terminal." A BTS is not equivalent to any of these recited user devices. Therefore, the section 102 rejection of claim 1 based on Millar is overcome.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claim." See *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). Clearly, in this instance, each and every element as set forth in claim 1 is not found, expressly or inherently, in

Millar for reasons given above. And, the identical invention is not shown in Millar in as complete detail as is contained in claim 1 for reasons given above.

Accordingly, the 35 U.S.C. §102(a) rejection of claim 1 should be withdrawn and the claim allowed.

**Independent Claim 17:**

Claim 17 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant does not agree with the rationale for this rejection for the reasons given in the remarks of the last response, identifying support in the application as filed. Therein, support for the amendments made in that response were clearly specified, contrary to the Examiner's position. (Office Action, pg 3) However, since those amendments are not needed for allowability, they have been removed in the instant amendment.

Claim 17 has been amended to change "human user" to "user" and to delete "undigitized." Therefore, this amendment to this claim overcomes the section 112 rejection. Applicant respectfully requests that the section 112 rejection of claim 17 be withdrawn.

Claim 17 is also rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Millar. The Office Action equates Millar's BTS (Base Transceiver Station) with Applicant's "user device." (Office Action, pg 3) Although that interpretation of Millar's BTS is overly broad, for purposes of advancing the prosecution, Applicant has defined around that interpretation by the current amendment. Claim 17 now limits its recited user device to a user device selected from the group of user devices consisting of "a telephone, a teletypewriter, a facsimile machine, an information exchange system, an enhanced position location and reporting system, link 16 equipment, a digitized video device, a

printer, a modem, a hub, a private branch exchange, a digital switch, a naval tactical data system, a miniature terminal and an airborne terminal.” A BTS is not equivalent to any of these recited user devices. Therefore, the section 102 rejection of claim 17 based on Millar is overcome.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ...claim.” See *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). Clearly, in this instance, each and every element as set forth in claim 17 is not found, expressly or inherently, in Millar for reasons given above. And, the identical invention is not shown in Millar in as complete detail as is contained in claim 17 for reasons given above.

Accordingly, the 35 U.S.C. §102(a) rejection of claim 17 should be withdrawn and the claim allowed.

**Independent Claim 18:**

Claim 18 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant does not agree with the rationale for this rejection for the reasons given in the remarks of the last response, identifying support in the application as filed. Therein, support for the amendments made in that response were specified, contrary to the Examiner’s position. (Office Action, pg

3) However, since those amendments are not needed for allowability, they have been removed in the instant amendment.

Claim 18 has been amended to change "human user" to "user" and to delete "un-digitized." Further, "human-user device operated and controlled by a human user" has been deleted. Therefore, this amendment to this claim overcomes the section 112 rejection. Applicant respectfully requests that the section 112 rejection of claim 18 be withdrawn.

Claim 18 is also rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Millar. The Office Action equates Millar's BTS (Base Transceiver Station) with Applicant's "user device." (Office Action, pg 3) Although that interpretation of Millar's BTS is overly broad, for purposes of advancing the prosecution, Applicant has defined around that interpretation by the current amendment. Claim 18 now limits its recited user device to a user device selected from the group of user devices consisting of "a telephone, a teletypewriter, a facsimile machine, an information exchange system, an enhanced position location and reporting system, link 16 equipment, a digitized video device, a printer, a modem, a hub, a private branch exchange, a digital switch, a naval tactical data system, a miniature terminal and an airborne terminal." A BTS is not equivalent to any of these recited user devices. Therefore, the section 102 rejection of claim 18 based on Millar is overcome.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2

USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ...claim.” See *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). Clearly, in this instance, each and every element as set forth in claim 18 is not found, expressly or inherently, in Millar for reasons given above. And, the identical invention is not shown in Millar in as complete detail as is contained in claim 18 for reasons given above.

Accordingly, the 35 U.S.C. §102(a) rejection of claim 18 should be withdrawn and the claim allowed.

**Independent Claim 36:**

Claim 36 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant does not agree with the rationale for this rejection for the reasons given in the remarks of the last response, identifying support in the application as filed. Therein, support for the amendments made in that response were specified, contrary to the Examiner’s position. (Office Action, pg 3) However, since those amendments are not needed for allowability, they have been removed in the instant amendment.

Claim 36 has been amended to change “human user” to “user” and to delete “un-digitized.” Further, “human-user device operated and controlled by a human user” has been deleted. Therefore, this amendment to this claim overcomes the section 112 rejection. Applicant respectfully requests that the section 112 rejection of claim 36 be withdrawn.

Claim 36 is also rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Millar. The Office Action equates Millar’s BTS (Base Transceiver Station) with

Applicant's "user device." (Office Action, pg 3) Although that interpretation of Millar's BTS is overly broad, for purposes of advancing the prosecution, Applicant has defined around that interpretation by the current amendment. Claim 36 now limits its recited user device to a user device selected from the group of user devices consisting of "a telephone, a teletypewriter, a facsimile machine, an information exchange system, an enhanced position location and reporting system, link 16 equipment, a digitized video device, a printer, a modem, a hub, a private branch exchange, a digital switch, a naval tactical data system, a miniature terminal and an airborne terminal." A BTS is not equivalent to any of these recited user devices. Therefore, the section 102 rejection of claim 36 based on Millar is overcome.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claim." See *Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). Clearly, in this instance, each and every element as set forth in claim 36 is not found, expressly or inherently, in Millar for reasons given above. And, the identical invention is not shown in Millar in as complete detail as is contained in claim 36 for reasons given above.

Accordingly, the 35 U.S.C. §102(a) rejection of claim 36 should be withdrawn and the claim allowed.

**Dependent Claims:**



Dependent claims 2-16, dependent from claim 1, are allowable because they are dependent from an allowable base claim.

Dependent claims 37-38, dependent from claim 36, are allowable because they are dependent from an allowable base claim.

### **CONCLUSION**

Reconsideration and allowance are respectfully requested based on the above amendments and remarks.<sup>2</sup> Applicant has amended the claims for the sole purpose of advancing the prosecution of the application to an allowance. Applicant does not acquiesce in the art rejections presented in the Office Action, and maintains that Applicant's arguments previously presented in the previous response with regard to (1) undigitized analog signals, (2) human user device and (3) radio signal representing only extracted payload bits are all meritorious.

If there are any remaining issues or if the Examiner believes that a telephone conversation with Applicant's attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at 508-625-1323.

To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. Please charge any other fees due, or credit any overpayment made to that account.

Date: **August 31, 2011**

Respectfully submitted,

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<sup>2</sup> As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, Official Notice, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.